

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**TRANSMITTAL  
FORM**

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number	09/836,884
Filing Date	4/17/2001
First Named Inventor	Denis
Art Unit	2823
Examiner Name	Nguyen, Khem D.
Total Number of Pages in This Submission	3
Attorney Docket Number	H-303

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance communication to Technology Center (TC)
<input type="checkbox"/> <input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> <input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Response to Missing Parts/ Incomplete Application		
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		
Remarks		

RECEIVED  
MAR 09 2004**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm or Individual name	David J. Cole
Signature	<i>David J. Cole</i>
Date	October 29, 2003

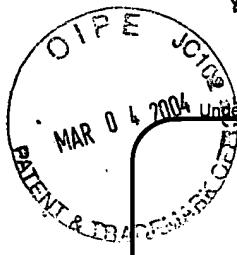
**CERTIFICATE OF TRANSMISSION/MAILING**

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name	David J. Cole
Signature	<i>David J. Cole</i>
Date	October 29, 2003

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



## TRANSMITTAL FORM

*(to be used for all correspondence after initial filing)*

<i>Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.</i>		Application Number <b>09/836,884</b>
		Filing Date <b>4/17/2001</b>
		First Named Inventor <b>Denis</b>
		Art Unit <b>2823</b>
		Examiner Name <b>Nguyen, Khem D.</b>
Total Number of Pages in This Submission <b>48</b>		Attorney Docket Number <b>H-303</b>

**RECEIVED**

*MAR 09 2004*

ENCLOSURES <i>(Check all that apply)</i>			
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input checked="" type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):	
Remarks			
<p>The calculation of the number of pages includes all three copies of the Appeal Brief and the four pages of attachments to the Petition.</p>			
SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm or Individual name	David J. Cole		
Signature			
Date	March 2, 2004		

CERTIFICATE OF TRANSMISSION/MAILING			
<p>I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.</p>			
Typed or printed name	David J. Cole		
Signature			Date
			March 2, 2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

*If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.*

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

# FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

 Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 640)

## Complete if Known

Application Number	09/836,884
Filing Date	4/17/2001
First Named Inventor	Denis
Examiner Name	Nguyen, K.D.
Art Unit	2823
Attorney Docket No.	H-303

## METHOD OF PAYMENT (check all that apply)

 Check  Credit card  Money Order  Other  None
 Deposit Account:

Deposit Account Number	501162
Deposit Account Name	E Ink Corporation

The Director is authorized to: (check all that apply)

- Charge fee(s) indicated below  Credit any overpayments  
 Charge any additional fee(s) or any underpayment of fee(s)  
 Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

## FEE CALCULATION

## 1. BASIC FILING FEE

Large Entity	Small Entity	Fee Code (\$)	Fee Code (\$)	Fee Description	Fee Paid
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	
SUBTOTAL (1) (\$)					

## 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Independent Claims	Multiple Dependent	Extra Claims	Fee from below	Fee Paid
			-20** =	X _____	= _____
			- 3** =	X _____	= _____

Large Entity	Small Entity	Fee Description
1202	18	2202 9 Claims in excess of 20
1201	86	2201 43 Independent claims in excess of 3
1203	290	2203 145 Multiple dependent claim, if not paid
1204	86	2204 43 ** Reissue independent claims over original patent
1205	18	2205 9 ** Reissue claims in excess of 20 and over original patent
SUBTOTAL (2) (\$)		

\*\*or number previously paid, if greater; For Reissues, see above

## 3. ADDITIONAL FEES

Large Entity Small Entity

Fee Code (\$)	Fee Code (\$)	Fee Description	Fee Paid
1051	130	2051 65 Surcharge - late filing fee or oath	
1052	50	2052 25 Surcharge - late provisional filing fee or cover sheet	
1053	130	1053 130 Non-English specification	
1812	2,520	1812 2,520 For filing a request for ex parte reexamination	
1804	920*	1804 920* Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805 1,840* Requesting publication of SIR after Examiner action	
1251	110	2251 55 Extension for reply within first month	475
1252	420	2252 210 Extension for reply within second month	
1253	950	2253 475 Extension for reply within third month	
1254	1,480	2254 740 Extension for reply within fourth month	
1255	2,010	2255 1,005 Extension for reply within fifth month	
1401	330	2401 165 Notice of Appeal	165
1402	330	2402 165 Filing a brief in support of an appeal	
1403	290	2403 145 Request for oral hearing	
1451	1,510	1451 1,510 Petition to institute a public use proceeding	
1452	110	2452 55 Petition to revive - unavoidable	
1453	1,330	2453 665 Petition to revive - unintentional	
1501	1,330	2501 665 Utility issue fee (or reissue)	
1502	480	2502 240 Design issue fee	
1503	640	2503 320 Plant issue fee	
1460	130	1460 130 Petitions to the Commissioner	
1807	50	1807 50 Processing fee under 37 CFR 1.17(q)	
1806	180	1806 180 Submission of Information Disclosure Stmt	
8021	40	8021 40 Recording each patent assignment per property (times number of properties)	
1809	770	2809 385 Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810 385 For each additional invention to be examined (37 CFR 1.129(b))	
1801	770	2801 385 Request for Continued Examination (RCE)	
1802	900	1802 900 Request for expedited examination of a design application	
Other fee (specify) _____			

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ 640)

## SUBMITTED BY

(Complete if applicable)

Name (Print/Type)	David J. Cole	Registration No. (Attorney/Agent)	29629	Telephone	617-499-6069
Signature	<i>David J. Cole</i>			Date	March 2, 2004

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**Serial No.** 09/836,884  
**Confirmation No.** 5188  
**Application of:** Denis et al.  
**Filed:** April 17, 2001  
**Group Art Unit:** 2823  
**Examiner:** Nguyen, K.D.  
  
**Attorney Docket No.:** H-303  
**Customer No.:** 26245

**RECEIVED**  
MAR 09 2004

Cambridge, Massachusetts  
March 2, 2004

**CONDITIONAL PETITION TO ACCORD DATE OF  
FACSIMILE TRANSMISSION AS DATE OF FILING**

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

A final Office Action was issued in connection with the above application on July 29, 2003. On October 29, 2003, the undersigned attorney filed by facsimile to facsimile number 703-746-9179 (the number given in the Office Action) a Notice of Appeal (in duplicate) and a Transmittal Form (Form PTO/SB/17). It is respectfully noted that this facsimile was sent prior to the effective date of the Office's institution of a central facsimile number. The originals of these documents are being filed with this Petition, together with the original confirmation sheet from the facsimile machine confirming the transmission.

The undersigned attorney is now filing the Appeal Brief, together with an appropriate Petition for Extension of Time. However, upon checking the status of this application yesterday via USPTO Direct, the undersigned attorney was surprised to discover that the aforementioned Notice of Appeal did not appear in the listing of file contents. Furthermore, it does not appear that the fee for the Notice of Appeal has been charged to the assignee's Deposit Account. On the other hand, the undersigned attorney

*Denis et al.*  
Serial No. 09/836,884  
*Conditional Petition of March 2, 2004*  
Page 2

has not received a Notice of Abandonment despite the expiry on January 29, 2004 of the statutory period for responding to the final Action. Accordingly, the applicants are in some doubt whether the Notice of Appeal has ever been entered in this case. If the Notice of Appeal has not in fact been entered, the applicants hereby petition, pursuant to 37 CFR 1.8(a) for entry of the Notice of Appeal as of October 29, 2003, the date on which the Notice of Appeal was transmitted to the Office with a Certificate as required by that Rule. The undersigned attorney hereby certifies that he personally prepared the Notice of Appeal and accompanying Form PTO/SB//21 and personally transmitted them to the Office on October 29, 2003.

It is believed that no fee is required in connection with this Petition. If, however, the Office determines that a fee is required, please charge the fee to the assignee's Deposit Account 501162, of which the undersigned attorney is an authorized signatory.

Respectfully submitted,



David J. Cole  
Registration No. 29629

E Ink Corporation  
733 Concord Avenue  
Cambridge MA 02138-1002

Telephone (617) 499-6069  
Facsimile (617) 499-6200  
E-mail dcole@eink.com